HUSBAND AND WIFE — WIFE'S SEPARATE ESTATE — WIFE'S ACQUISITION OF HUSBAND'S INTEREST IN ESTATE BY ENTIRETY. — At an execution sale, the plaintiff purchased her husband's interest as tenant by entirety with her. *Held*, that the entire estate is thereby vested in the plaintiff. *Mardt* v. *Scharmach*, 65 N. Y. Misc. 124 (Sup. Ct.).

Tenancy by entirety is founded on the legal fiction that husband and wife are one. *Stelz* v. *Shreck*, 128 N. Y. 263. These two natural persons hold the estate as one legal person, and on the death of either, the same estate continues in the survivor. *Stuckey* v. *Keefe's Executors*, 26 Pa. St. 397. That neither one can alienate the estate so as to bar the survivor is universally agreed; and some courts even hold that the husband cannot convey or encumber the estate for the period of his own life. *Chandler* v. *Cheney*, 37 Ind. 391, 408. *Contra*, *Barber* v. *Harris*, 15 Wend. (N. Y.) 616; *Torey* v. *Torey*, 14 N. Y. 430. But since at common law the husband during his life had absolute control over his wife's separate estate, it would seem to follow that the wife's interest in an estate by entirety would become vested in the husband for that period; so that having the entire interest in the estate, he could make a conveyance or mortgage, valid until his death. See *Ames* v. *Norman*, 4 Sneed (Tenn.) 683; *Meeker* v. *Wright*, 76 N. Y. 262, 267. Accordingly, this interest of the husband should be subject to execution. *Ames* v. *Norman*, 4 Sneed (Tenn.) 683. At the execution sale in the principal case, the wife acquired all her husband's interest. And since she already had a right of survivorship inalienable by him, she clearly became vested of the entire estate.

INSURANCE — CONSTRUCTION OF PARTICULAR WORDS AND PHRASES IN STANDARD FORMS — "FIRE." — The furnishings of a house were damaged, but not ignited, by the heat and smoke from an unusually hot furnace fire. The furnishings were insured against "all direct loss and damage by fire." *Held*, that the damage is covered by the policy. *O'Connor* v. *Queen Ins. Co.*, 122 N. W. 1038, 1121 (Wis.).

In determining what fires are covered by an insurance policy, the decisions have heretofore followed a single rule of construction: so long as a fire intentionally lighted is confined to its appropriate place, it is not a risk insured against. *Fitzgerald* v. *German-American Ins. Co.*, 30 N. Y. Misc. 72; *Cannon* v. *Phœnix Ins. Co.*, 110 Ga. 563. Under this test, the location of the fire is all important. Another rule suggested is that if goods purposely subjected to a fire are damaged, but not ignited, the insurance company is not liable. See *Scripture* v. *Lowell Mut. Fire Ins. Co.*, 10 Cush. (Mass.) 356, 360. This rule is unsatisfactory, since it considers not what fire did the damage but what goods were injured. The principal case presents yet another rule: that if an ordinary fire is intentionally lighted, damage without ignition caused by it is not covered; but if the fire becomes extraordinary and unsuitable for the use intended, resulting losses are recoverable. This rule emphasizes the kind of fire rather than its location. But the test is difficult to apply. See *The Amer. Towing Co.* v. *The German Fire Ins. Co.*, 74 Md. 25, 33. And the policy was scarcely meant to include a fire confined within its proper limits. So the wisdom of making this exception to the settled rule is doubtful. See *Samuels* v. *Continental Ins. Co.*, 2 Pa. Dist. 397.

INTERPLEADER — BILL IN NATURE OF INTERPLEADER. — A contracted with the C railroad to construct part of the latter's road. He made a subcontract with B for the construction, and B engaged various subcontractors. C owed A an undisputed amount which the subcontractors were attempting to attach, and which was wholly inadequate to satisfy all. Mechanics' liens asserted by the subcontractors were said by the court to be invalid. C joined A and the subcontractors as defendants in a bill in equity, and paid into court the sum due A. *Held*, that C is entitled to a bill in the nature of interpleader. *Chicago, Rock Island, & Pacific Ry. Co.* v. *Moore*, 123 S. W. 233 (Ark.).

To support a bill of strict interpleader there must be adverse claims mutually exclusive; if all the claims may be enforceable, obviously there is no occasion for interpleader. *Nat'l Life Ins. Co.* v. *Pingrey*, 141 Mass. 411; *Bassett* v. *Leslie*, 123 N. Y. 396. See 22 HARV. L. REV. 294. Where many claims are sought to be satisfied out of a fund inadequate to satisfy all, the requirement of mutual exclusiveness should not be applied so nicely as to defeat equitable relief. See *School Dist.* v. *Weston*, 31 Mich. 85. Where the plaintiff bases his right in equity on grounds other than those of strict interpleader, and where he is seeking further equitable relief than that of negative injunction, his bill is in the nature of interpleader. See *Illingworth* v. *Rowe*, 52 N. J. Eq. 360. Such a bill lies at the suit of a mortgagor seeking redemption of the mortgage against adverse claimants to the mortgage debt, or to remove the encumbrance of mechanics' liens. *Koppinger* v. *O'Donnell*, 16 R. I. 417; *Illingworth* v. *Rowe*, *supra*. Since the mechanics' liens in the principal case are invalid, there seems to be no ground for a bill in the nature of interpleader. But A claims the fund exclusively of all the subcontractors, for he denies any liability to B, and on the facts there is mutual exclusiveness, in the sense that each claim exhausts the stake. See *Aleck* v. *Jackson*, 49 N. J. Eq. 507.

JOINT WRONGDOERS — DISTINCTION BETWEEN JOINT TORTFEASORS AND CONTRIBUTORS TO INJURY. — The defendant was one of several independent upper riparian owners, refuse from whose mines destroyed the value of the plaintiff's sand-bar in such a manner that it was very difficult to prove how much of the damage was done by each. *Held*, that the plaintiff can recover only for the damage done by this defendant. *Pulaski Anthracite Coal Co.* v. *Gibboney Sand Bar Co.*, 66 S. E. 73 (Va.).

Tortfeasors are jointly and severally liable not only where they have acted in concert, or for a common purpose, but also where their originally independent acts have united to cause a single, inseparable injury. *Slater* v. *Mersereau*, 64 N. Y. 138; *Barnes* v. *Masterson*, 38 N. Y. App. Div. 612. It does not follow, however, that because it is very difficult to separate injuries into component parts, they form a single injury. *Little Schuylkill Navigation, etc. Co.* v. *Richards's Adm'r*, 57 Pa. St. 142. So even though an act, otherwise lawful, becomes a nuisance because other independent acts contribute, each tortfeasor is liable only for his share. *Harley* v. *Merrill Brick Co.*, 83 Ia. 73. It is true that equity will restrain all such independent tortfeasors by a single bill analogous to a bill of peace. *Lockwood Co.* v. *Lawrence*, 77 Me. 297. See POMEROY EQ. JURIS., 3 ed., § 269. But one injunction merely prevents each defendant from doing what he has no right to do, whereas one judgment would exact payment for a wrong done by another. *Blaisdell* v. *Stephens*, 14 Nev. 17. In the principal case, each bit of the defendant's refuse harms a distinct bit of the plaintiff's sand-bar, though it is practically difficult to measure their combined extent. *Swain* v. *Tennessee Copper Co.*, 111 Tenn. 430. But if his refuse united with that of the others to form a single injurious compound, a clear case of joint and several liability would be found.

LANDLORD AND TENANT — CONDITIONS AND COVENANTS IN LEASES — EFFECT OF COVENANT NOT TO ASSIGN UPON CONVEYANCE BETWEEN TENANTS IN COMMON. — A leased to B and C with a condition and covenant against assignment by the lessees. B assigned his interest to C. A with knowledge of the assignment accepted rent from C. *Held*, that C is entitled to exercise an option of renewal in the original lease. *Spangler* v. *Spangler*, 104 Pac. 995 (Cal., Ct. App.).

Inasmuch as the conveyance of his interest by one of two tenants in common to the other does not introduce a new tenant, it seems consistent with both the letter and the intent of the lease to hold that such a conveyance is not a breach of a condition or joint covenant not to assign. See *Roosevelt* v. *Hopkins*, 33